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AN ACT

relating to the administration and business affairs of public institutions of higher education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. FINANCIAL MANAGEMENT

SECTION 1.01. Section 51.003, Education Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) The funds shall either be deposited in the depository bank or banks or invested as authorized by Chapter 2256, Government Code (Public Funds Investment Act). Funds that are to be deposited in the depository bank or banks must be deposited within seven days from the date of receipt by the institution [collection].

(f) Notwithstanding any other provision of this section, the governing board of each institution may maintain unsecured deposits in a foreign bank as necessary to support the institution's academic and research operations in the foreign country in which the bank is located, provided that no appropriated or tuition funds other than those collected from students enrolled in the affected programs are deposited. The foreign bank must:

- (1) be licensed and supervised by a central bank;
- (2) be audited annually by an accounting firm that follows international financial reporting standards; and
- (3) maintain a capital to total assets ratio that is

1 not less than the greater of four percent or the minimum tier 1  
 2 capital to total assets ratio required for depository institutions  
 3 insured by the Federal Deposit Insurance Corporation.

4 SECTION 1.02. Subchapter A, Chapter 51, Education Code, is  
 5 amended by amending Section 51.005 and adding Sections 51.010,  
 6 51.011, and 51.012 to read as follows:

7 Sec. 51.005. REPORTS. Each institution of higher education  
 8 ~~[(a) True and full accounts shall be kept by the governing board~~  
 9 ~~and by the employees of the institution of all funds collected from~~  
 10 ~~all sources and of all sums paid out and the persons to whom and the~~  
 11 ~~purposes for which the sums are paid. The governing board]~~ shall  
 12 prepare [annually print] a complete annual financial report as  
 13 prescribed by Section 2101.011, Government Code ~~[of all the sums~~  
 14 ~~collected, all expenditures, and all sums remaining on hand. The~~  
 15 ~~report shall show the true condition of all funds as of the August~~  
 16 ~~31 preceding as well as the collections and expenditures for the~~  
 17 ~~preceding year.~~

18 ~~[(b) Reports under this section must be in a form approved~~  
 19 ~~jointly by the coordinating board and the comptroller. The~~  
 20 ~~accounting and classification procedures of each institution must~~  
 21 ~~be consistent with uniform procedures prescribed for that purpose~~  
 22 ~~by the coordinating board and the comptroller. The requirements~~  
 23 ~~imposed by the coordinating board and the comptroller must be~~  
 24 ~~designed to reduce paperwork and duplicative reports.~~

25 ~~[(c) The governing board shall furnish one copy of the~~  
 26 ~~report each to the governor, comptroller of public accounts, state~~  
 27 ~~auditor, Texas Higher Education Coordinating Board, Legislative~~

~~Budget Board, House Appropriations Committee, Senate Finance Committee, and Legislative Reference Library. A copy of the report shall be submitted to the comptroller by the deadline established by the comptroller or the General Appropriations Act as necessary to prepare an audited comprehensive financial report. The governing board shall retain five copies of the report for distribution to legislators or other state officials on request].~~

Sec. 51.010. COLLECTION OF DELINQUENT OBLIGATIONS. If under the rules adopted by the attorney general under Chapter 2107, Government Code, an institution of higher education is not required to refer a delinquent obligation for collection to the attorney general, the institution is not required to expend resources for further collection efforts if, considering the amount, security, likelihood of collection, expense, and available resources, the institution determines that further collection should not be actively pursued.

Sec. 51.011. DISPOSITION OF SMALL CREDIT BALANCES.

(a) This section applies to a credit balance of less than \$25 held by an institution of higher education that is presumed abandoned under Chapter 72, Property Code.

(b) An institution of higher education may maintain an unclaimed money fund and transfer to that fund a credit balance to which this section applies. A deposit to the unclaimed money fund does not affect the ownership of the amount deposited. The institution shall:

(1) adopt procedures for owners to make and receive payments of claims against the fund; and

1           (2) maintain a database that permits members of the  
2 public to search for ownership of unclaimed funds.

3           (c) The institution of higher education shall use the fund  
4 to pay the claims of persons establishing ownership of amounts  
5 transferred to the fund and shall hold and account for the unclaimed  
6 money fund as educational and general funds of the institution. If  
7 the fund balance is insufficient to pay a valid claim, the  
8 institution shall pay the claim from the institution's other  
9 educational and general funds.

10           (d) Each fiscal year, after deducting funds sufficient to  
11 pay anticipated expenses of and claims against the unclaimed money  
12 fund, the institution shall use the balance of the fund as other  
13 educational and general funds of the institution.

14           (e) In consultation with institutions of higher education,  
15 the comptroller by rule may establish minimum requirements for  
16 notice to owners of unclaimed money deposited in the unclaimed  
17 money fund and for charges for that notice. The rules may not  
18 provide stricter requirements than the comptroller applies for  
19 amounts of less than \$25 in the custody of the comptroller under  
20 Chapter 74, Property Code.

21           (f) If an institution of higher education maintains an  
22 unclaimed money fund under this section, Chapter 74, Property Code,  
23 does not apply to a credit balance to which this section applies.

24           Sec. 51.012. PAYMENTS BY ELECTRONIC FUNDS TRANSFER OR  
25 ELECTRONIC PAY CARD. An institution of higher education may make  
26 any payment through electronic funds transfer or by electronic pay  
27 card.

SECTION 1.03. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9741 to read as follows:

Sec. 51.9741. INTERNET ACCESS TO FINANCIAL TRANSACTIONS.

(a) Each institution of higher education, as defined by Section 61.003, shall post on the institution's Internet website a copy of the institution's financial transactions to the extent necessary to provide, for each payment drawn from money appropriated from the state general revenue fund or received as student tuition or fee payments:

(1) the amount of the payment;

(2) the date of the payment;

(3) a brief description of the purpose of the payment;

and

(4) the name of the payee.

(b) An institution of higher education may comply with this section by providing on the institution's Internet website an easily noticeable direct link, the purpose of which is clearly identifiable, to an Internet website maintained by the comptroller that provides information concerning the institution that is similar to the information required under Subsection (a).

SECTION 1.04. Section 65.42, Education Code, is amended to read as follows:

Sec. 65.42. DELINQUENT ACCOUNTS; VENUE. A suit by The University of Texas System on its own behalf or on behalf of a component institution of The University of Texas System to recover a delinquent loan, account, or debt owed to The University of Texas System or a component institution of The University of Texas System

1 must ~~[may]~~ be brought in Travis County.

2       SECTION 1.05. Section 1231.001, Government Code, is amended  
3 by amending Subdivision (2) and adding Subdivision (3) to read as  
4 follows:

5               (2) "State security" means:

6                       (A) an obligation, including a bond, issued by:

7                               (i) a state agency;

8                               (ii) an entity that is expressly created by  
9 statute and has statewide jurisdiction; or

10                              (iii) an entity issuing the obligation on  
11 behalf of this state or on behalf of an entity described by  
12 Subparagraph (i) or (ii);

13                       (B) an installment sale or lease-purchase  
14 obligation that is issued by or on behalf of an entity described by  
15 Paragraph (A) and that has:

16                               (i) a stated term of more than five years;

17 or

18                               (ii) an initial principal amount of more  
19 than \$250,000; or

20                       (C) an obligation, including a bond, that is  
21 issued under Chapter 53, Education Code, at the request of or for  
22 the benefit of an institution of higher education [~~as defined by~~  
23 ~~Section 61.003, Education Code,~~] other than a public junior  
24 college.

25               (3) "Institution of higher education" has the meaning  
26 assigned by Section 61.003, Education Code.

27       SECTION 1.06. Section 1231.041, Government Code, is amended

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1 to read as follows:

2       Sec. 1231.041. APPROVAL OF STATE SECURITY. (a) Except as  
3 otherwise provided by this section, an [Aa] entity, including a  
4 state agency, may not issue a state security unless:

5               (1) the board approves the issuance; or

6               (2) the security is exempted under law, including a  
7 board rule adopted under Section 1231.022(2).

8       (b) A state security issued by an institution of higher  
9 education, or issued at the request of or for the benefit of an  
10 institution of higher education, is not subject to board approval  
11 if:

12               (1) the institution or the university system of which  
13 the institution is a component has an unenhanced long-term debt  
14 rating of at least AA- or its equivalent; and

15               (2) the general revenue of this state is not pledged to  
16 the payment of the security.

17       SECTION 1.07. Section 74.001, Property Code, is amended by  
18 adding Subsection (c) to read as follows:

19       (c) This chapter does not apply to small credit balances  
20 held by an institution of higher education in an unclaimed money  
21 fund under Section 51.011, Education Code.

22       SECTION 1.08. Section 51.011, Education Code, as added by  
23 this Act, applies to credit balances held by a public institution of  
24 higher education on or after the effective date of this Act.

25               ARTICLE 2. GOODS AND SERVICES

26       SECTION 2.01. Section 51.923, Education Code, is amended to  
27 read as follows:

Sec. 51.923. QUALIFICATIONS OF CERTAIN BUSINESS ENTITIES TO  
ENTER INTO CONTRACTS WITH AN INSTITUTION OF HIGHER EDUCATION.

(a) In this section:

(1) "Business entity" [~~"Corporation"~~] means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, firm, corporation, limited liability company, holding company, joint stock company, receivership, or trust [~~a corporation for profit organized under the laws of this state or under laws other than the laws of this state~~].

(2) "Governing board" has the meaning assigned by Section 61.003 [~~of this code~~].

(3) "Institution of higher education" has the meaning assigned by Section 61.003 [~~of this code~~].

(4) "Nonprofit corporation" means any organization exempt from federal income tax under Section 501 of the Internal Revenue Code of 1986 that does not distribute any part of its income to any member, director, or officer.

(b) A nonprofit corporation is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education also serves as a member, [~~or~~] director, officer, or employee of the nonprofit corporation.

(c) A business entity [~~corporation~~] is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of



1 the governing board of the institution of higher education have an  
2 interest in the business entity, subject to Subsection (d) [~~also~~  
3 ~~serves as a stockholder or director of the corporation provided~~  
4 ~~that no member of the governing board owns or has a beneficial~~  
5 ~~interest in more than five percent of the corporation's outstanding~~  
6 ~~capital stock and further provided that the contract or transaction~~  
7 ~~is:~~

8           ~~[(1) an affiliation, licensing, or sponsored research~~  
9 ~~agreement, or~~

10           ~~[(2) awarded by competitive bidding or competitive~~  
11 ~~sealed proposals].~~

12           (d) An institution of higher education is not prohibited  
13 from entering into a contract or other transaction with a business  
14 entity in which a member of the governing board of the institution  
15 of higher education has an interest if the interest is not a  
16 substantial interest or, if the interest is a substantial interest,  
17 the [~~described in this section if any~~] board member [~~having an~~  
18 ~~interest described in this section in the contract or transaction~~]  
19 discloses that interest in a meeting held in compliance with  
20 Chapter 551, Government Code, and refrains from voting on the  
21 contract or transaction requiring board approval. Any such  
22 contract or transaction requiring board approval must be approved  
23 by an affirmative majority of the board members voting on the  
24 contract or transaction.

25           (e) For purposes of this section, a member of a governing  
26 board has a substantial interest in a business entity if:

27           (1) the member owns 10 percent or more of the voting

1 stock or shares of the business entity or owns either 10 percent or  
2 more or \$15,000 or more of the fair market value of the business  
3 entity;

4           (2) funds received by the member from the business  
5 entity exceed 10 percent of the member's gross income for the  
6 previous year;

7           (3) the member is an officer of the business entity or  
8 a member of the governing board of the business entity; or

9           (4) an individual related to the member in the first  
10 degree by consanguinity or affinity, as determined under Chapter  
11 573, Government Code, has an interest in the business entity as  
12 described by Subdivision (1), (2), or (3).

13           (f) A violation of this section does not render an action of  
14 the governing board voidable unless the contract or transaction  
15 that was the subject of the action would not have been approved by  
16 the governing board without the vote of the member who violated this  
17 section.

18           SECTION 2.02. Section 51.9335, Education Code, is amended  
19 by amending Subsections (d) and (f) and adding Subsections (g) and  
20 (h) to read as follows:

21           (d) Subtitle D, Title 10, Government Code, and Subchapter B,  
22 Chapter 2254, Government Code, do not apply to the acquisition of  
23 goods and services under this section, except that an institution  
24 of higher education must comply with any provision of those laws, or  
25 a rule adopted under a provision of those laws, [To the extent of  
26 any conflict, this section prevails over any other law, including  
27 Chapters 2155, 2156, 2157, 2158, 2167, and 2170, Government Code,

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1 ~~except a law or rule]~~ relating to contracting with historically  
2 underutilized businesses or relating to the procurement of goods  
3 and services from persons with disabilities. An institution of  
4 higher education may, but is not required to, acquire goods or  
5 services as provided by Subtitle D, Title 10 [~~Chapters 2155, 2156,~~  
6 ~~2157, 2158, 2167, and 2170~~], Government Code.

7 (f) This section does not apply to professional services as  
8 defined by Section 2254.002, Government Code. Professional  
9 services shall be procured in accordance with Subchapter A, Chapter  
10 2254, Government Code.

11 (g) An institution of higher education may adopt rules and  
12 procedures for the acquisition of goods or services.

13 (h) In any contract for the acquisition of goods and  
14 services to which an institution of higher education is a party, a  
15 provision required by applicable law to be included in the contract  
16 is considered to be a part of the executed contract without regard  
17 to:

18 (1) whether the provision appears on the face of the  
19 contract; or

20 (2) whether the contract includes any provision to the  
21 contrary.

22 SECTION 2.03. Subchapter 2, Chapter 51, Education Code, is  
23 amended by adding Section 51.9336 to read as follows:

24 Sec. 51.9336. ELECTRONIC AND DIGITAL SIGNATURES. (a) An  
25 institution of higher education or university system, as those  
26 terms are defined by Section 61.003, shall determine whether, and  
27 the extent to which, the institution or system will send and accept

1 electronic or digital signatures to and from other persons and  
2 otherwise create, generate, communicate, store, process, use, and  
3 rely on electronic or digital signatures. The institution or  
4 system may adopt rules and procedures governing the use of  
5 electronic or digital signatures.

6 (b) To the extent of any conflict, this section prevails  
7 over Chapter 322, Business & Commerce Code, and rules and  
8 guidelines adopted under that chapter.

9 SECTION 2.04. Section 51.966, Education Code, is amended by  
10 amending Subsection (c) and adding Subsection (d) to read as  
11 follows:

12 (c) Section 612.002(b), Government Code, does not apply to  
13 an institution of higher education or university system purchasing  
14 insurance under this section.

15 (d) In [As used in] this section, "governing board," [and]  
16 "institution of higher education," and "university system" have the  
17 meanings assigned by Section 61.003.

18 SECTION 2.05. Subchapter C, Chapter 791, Government Code,  
19 is amended by adding Section 791.035 to read as follows:

20 Sec. 791.035. CONTRACTS WITH INSTITUTIONS OF HIGHER  
21 EDUCATION OR UNIVERSITY SYSTEMS. (a) A local government and an  
22 institution of higher education or university system may contract  
23 with one another to perform any governmental functions and  
24 services. If the terms of the contract provide for payment based on  
25 cost recovery, any law otherwise requiring competitive procurement  
26 does not apply to the functions and services covered by the  
27 contract.

1        (b) In this section, "institution of higher education" and  
2 "university system" have the meanings assigned by Section 61.003,  
3 Education Code.

4        SECTION 2.06. Section 2054.008, Government Code, is amended  
5 by adding Subsection (c) to read as follows:

6        (c) A university system or institution of higher education  
7 must provide written notice to the Legislative Budget Board under  
8 Subsection (b) only if the cost of the major information system  
9 exceeds \$1 million. In this subsection, "university system" has  
10 the meaning assigned by Section 61.003, Education Code.

11        SECTION 2.07. Subsection (n), Section 2155.078, Government  
12 Code, is amended to read as follows:

13        (n) This section does not apply to an institution [~~a medical~~  
14 ~~and dental unit~~] to which Section 51.9335, Education Code, applies  
15 or to an institution to which Section 73.115, Education Code,  
16 applies.

17                    ARTICLE 3. HUMAN RESOURCES

18        SECTION 3.01. Subchapter 2, Chapter 51, Education Code, is  
19 amended by adding Section 51.9611 to read as follows:

20        Sec. 51.9611. PAYROLL DEDUCTIONS FOR EMPLOYEES OF  
21 UNIVERSITY SYSTEM OR INSTITUTION OF HIGHER EDUCATION. (a) In this  
22 section, "institution of higher education" and "university system"  
23 have the meanings assigned by Section 61.003.

24        (b) The governing board of a university system, or of an  
25 institution of higher education that is not a component institution  
26 of a university system, may authorize employees of the system or  
27 institution, as applicable, to elect a payroll deduction for any

purpose that the governing board determines serves a public purpose and benefits employees. The board may adopt policies and procedures governing payroll deductions under this section. A payroll deduction under this section is in addition to payroll deductions authorized by other law.

(c) A payroll deduction under this section must be at the written request of the employee, and the request must state the amount to be deducted and the entity to which the deducted amount is to be transferred. A payroll deduction is in effect until revoked in writing by the employee, but the policies and procedures of the university system or institution of higher education, as applicable, may provide for enrollment periods.

(d) A university system or institution of higher education may collect an administrative fee to cover the costs of making a deduction.

(e) This section does not authorize a payroll deduction for dues or membership fees payable to a labor union or employees association.

SECTION 3.02. Subchapter C, Chapter 1601, Insurance Code, is amended by adding Section 1601.111 to read as follows:

Sec. 1601.111. PROGRAMS PROMOTING DISEASE PREVENTION, WELLNESS, AND HEALTH. A system may establish premium discounts, surcharges, rebates, or a revision in otherwise applicable copayments, coinsurance, or deductibles, or any combination of those incentives, for an individual who participates in system-approved programs promoting disease prevention, wellness, and health.

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SECTION 3.03. Subsection (d), Section 1601.201, Insurance Code, is amended to read as follows:

(d) Subsection (c) does not prohibit a system from contributing, from money not appropriated from the general revenue fund, amounts in excess of the amount specified by that subsection for:

(1) an individual employed by the system in a position that as a condition of employment requires the individual to be enrolled as a student in the system in graduate level courses; or

(2) an individual who is a tenured faculty member with whom the system has entered into a phased retirement agreement under which the individual will work less than 40 hours a week for a specified period of time at the end of which the individual will retire.

SECTION 3.04. Subchapter E, Chapter 1601, Insurance Code, is amended by adding Section 1601.2041 to read as follows:

Sec. 1601.2041. EMPLOYEE DEDUCTION FOR AUTOMATIC COVERAGE.  
Each individual automatically enrolled in a uniform program under Section 1601.104 is considered to have authorized a deduction from the participant's monthly compensation in an amount equal to the difference between:

(1) the total cost of the employee's basic coverage; and

(2) the amount contributed by the system for the employee's basic coverage.

ARTICLE 4. REAL ESTATE AND CONSTRUCTION

SECTION 4.01. Subchapter C, Chapter 61, Education Code, is

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1 amended by adding Section 61.0573 to read as follows:

2 Sec. 61.0573. EXPEDITED PROCESS FOR CERTAIN PROJECTS.

3 (a) In this section, "project" means the acquisition of improved  
4 or unimproved real property or the construction, repair, or  
5 rehabilitation of a building or other facility.

6 (b) Board approval of a project at an institution of higher  
7 education is not required under Section 61.0572 or 61.058 if the  
8 institution notifies the board of the project and certifies to the  
9 board that:

10 (1) the institution meets the current published board  
11 standards applicable to the institution for space need, usage  
12 efficiency, deferred maintenance, and critical deferred  
13 maintenance or the board has approved the institution's plan to  
14 correct any deficiencies in the institution's compliance with those  
15 applicable standards;

16 (2) the project meets current published board  
17 standards applicable to the project for cost, efficiency, and space  
18 use;

19 (3) the project is identified on the institution's  
20 campus master plan, as submitted to the board; and

21 (4) the institution has no deficiencies according to  
22 the board's most recent facilities audit or the board has approved  
23 the institution's plan to correct any such deficiencies.

24 (c) The board's staff shall promptly review a certification  
25 submitted under Subsection (b) and notify the institution whether  
26 the certification is sufficient and whether the information  
27 certified is consistent with the records of the board. If the staff



review determines that the certification is sufficient and that the information certified is consistent with the records of the board, the project is considered approved by the board.

(d) This section does not apply to a project that is a new branch campus, a new off-campus educational unit, or a new higher education center.

SECTION 4.02. Subsection (c), Section 2166.302, Government Code, is amended to read as follows:

(c) Subsection (a) does not apply to a project constructed by and for the Texas Department of Transportation or an institution of higher education or university system. In this subsection, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

SECTION 4.03. Subsection (c-1), Section 2166.403, Government Code, is amended to read as follows:

(c-1) For a project constructed by and for a state institution of higher education, the ~~[governing body of the]~~ institution shall, during the planning phase of the proposed construction for the project, verify ~~[in an open meeting]~~ the economic feasibility of incorporating into the building's design and proposed energy system alternative energy devices for space heating and cooling functions, water heating functions, electrical load functions, and interior lighting functions. The ~~[governing body of the]~~ institution shall determine the economic feasibility of each function listed in this subsection by comparing the estimated cost of providing energy for the function, based on the use of conventional design practices and energy systems, with the

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1 estimated cost of providing energy for the function, based on the  
2 use of alternative energy devices, during the economic life of the  
3 building.

4 SECTION 4.04. Subsection (b), Section 2167.001, Government  
5 Code, is amended to read as follows:

6 (b) This chapter does not apply to:

7 (1) radio antenna space;

8 (2) residential space for a Texas Department of Mental  
9 Health and Mental Retardation program;

10 (3) residential space for a Texas Youth Commission  
11 program;

12 (4) space to be used for less than one month for  
13 meetings, conferences, conventions, seminars, displays,  
14 examinations, auctions, or similar purposes;

15 (5) district office space for members of the  
16 legislature;

17 (6) space used by the Texas Workforce Commission;

18 (7) residential property acquired by the Texas  
19 Department of Housing and Community Affairs or the Texas State  
20 Affordable Housing Corporation that is offered for sale or rental  
21 to individuals and families of low or very low income or families of  
22 moderate income;

23 (8) except as provided by Section 2167.007, [~~classroom~~  
24 ~~and instructional~~] space for a university system or [an]  
25 institution of higher education; or

26 (9) space leased by the Texas Veterans Commission to  
27 administer the veterans employment services program.

SECTION 4.05. Section 33.06, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) If the ownership interest of an individual entitled to a deferral under this section is a life estate, a lien for the deferred tax attaches to the estate of the life tenant, and not to the remainder interest, if the owner of the remainder is an institution of higher education that has not consented to the deferral. In this subsection, "institution of higher education" has the meaning assigned by Section 61.003, Education Code. This subsection does not apply to a deferral for which the individual entitled to the deferral filed the affidavit required by Subsection (b) before September 1, 2011.

ARTICLE 5. BOARD APPOINTMENTS

SECTION 5.01. Section 552.123, Government Code, is amended to read as follows:

Sec. 552.123. EXCEPTION: NAME OF APPLICANT FOR CHIEF EXECUTIVE OFFICER OF INSTITUTION OF HIGHER EDUCATION. The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, is excepted from the requirements of Section 552.021, except that the governing body of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

SECTION 5.02. Subsection (b), Section 95.006, Health and Safety Code, is amended to read as follows:

(b) The advisory committee is composed of:

(1) the following representatives appointed by the executive director of the office:

(A) one representative of the office;

(B) one representative of the Texas Education Agency;

(C) one representative of the Texas Pediatric Society;

(D) one representative of the American Diabetes Association;

(E) ~~[one representative who is a member of the board of regents of The University of Texas--Pan American,~~

~~(F)]~~ one school nurse representative from an urban school located within the boundaries of a regional education service center;

(F) ~~(G)]~~ one parent or guardian of a child who resides within the boundaries of a regional education service center; and

(G) ~~(H)]~~ one person with knowledge and experience in health care in school settings; and

(2) the following representatives appointed by the chairman of the council:

(A) one representative of the council;

(B) one representative of the Texas Medical Association;

(C) one school district administrator representative from a school district located within the boundaries

1 of a regional education service center;

2 (D) one school principal representative from a  
3 school district located within the boundaries of a regional  
4 education service center; and

5 (E) one school nurse representative from a rural  
6 school located within the boundaries of a regional education  
7 service center.

8 SECTION 5.03. Subsections (a) and (c), Section 2.03,  
9 Chapter 670, Acts of the 72nd Legislature, Regular Session, 1991  
10 (Article 4477-7j, Vernon's Texas Civil Statutes), are amended to  
11 read as follows:

12 (a) On or after the effective date of this Act, the  
13 Commissioners Court of Gaines County shall appoint three persons,  
14 the governing body of the city of Seminole shall appoint two  
15 persons, and the governing body of the city of Seagraves shall  
16 appoint two persons to serve as initial directors of the district.  
17 The four persons appointed by the governing bodies of the cities of  
18 Seminole and Seagraves shall represent the municipalities within  
19 the county, and the three persons appointed by the Commissioners  
20 Court of Gaines County shall represent the unincorporated areas of  
21 the county. ~~[In addition, the board of regents of The University of~~  
22 ~~Texas System shall appoint one person to serve as an ex-officio,~~  
23 ~~nonvoting director of the district.]~~

24 (c) The Commissioners Court of Gaines County and the  
25 governing bodies of the cities of Seminole and Seagraves shall each  
26 appoint one initial director to serve a term expiring on May 1 of  
27 the first year after the year in which the original appointment is

made. In addition, the Commissioners Court of Gaines County shall appoint two initial directors and the governing bodies of the cities of Seminole and Seagraves shall each appoint one initial director to serve terms expiring on May 1 of the second year after the year in which the original appointment is made. ~~[The initial ex-officio member serves a term expiring on May 1 of the second year after the year in which the original appointment is made.]~~ Successor directors serve two-year terms.

SECTION 5.04. Subsection (a), Section 3.01, Chapter 670, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4477-7j, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The district is governed by a board of directors composed of seven voting members ~~[and one ex-officio nonvoting member]~~ who are appointed as provided by this Act. However, the district shall change to a system of electing the voting directors if:

(1) the Commissioners Court of Gaines County and the governing bodies of the cities of Seminole and Seagraves each pass a resolution calling for the election of the directors; or

(2) the board receives a petition signed by at least 150 registered voters of Gaines County calling for the election of the directors.

#### ARTICLE 6. REPORTS; RECORDS; AUDITS; NOTICES

SECTION 6.01. Subsection (n), Section 51.3062, Education Code, is amended to read as follows:

(n) Each institution of higher education, other than a

1 medical and dental unit, shall report annually to the board on the  
2 success of its students and the effectiveness of its Success  
3 Initiative.

4 SECTION 6.02. Subsection (d), Section 51.403, Education  
5 Code, is amended to read as follows:

6 (d) For purposes of this subsection, "small classes" [~~Each~~  
7 ~~institution shall file with its governing board and the~~  
8 ~~coordinating board a small class report, excluding individual~~  
9 ~~instruction courses, indicating department, course number, title~~  
10 ~~of course, and the name of the instructor. "Small classes," for the~~  
11 ~~purpose of this report,~~] are undergraduate-level courses with less  
12 than 10 registrations, and graduate-level courses with less than 5  
13 registrations. No small classes shall be offered in any  
14 institution except as authorized by the appropriate governing  
15 board, within the guidelines established by the Coordinating Board.

16 SECTION 6.03. Subchapter H, Chapter 51, Education Code, is  
17 amended by adding Section 51.406 to read as follows:

18 Sec. 51.406. EXPIRATION OF CERTAIN REPORTING REQUIREMENTS  
19 APPLICABLE TO INSTITUTIONS OF HIGHER EDUCATION AND UNIVERSITY  
20 SYSTEMS. (a) In this section, "university system" has the meaning  
21 assigned by Section 61.003.

22 (b) To the extent that any of the following laws require  
23 reporting by a university system or an institution of higher  
24 education, a university system or institution of higher education  
25 is not required to make the report on or after September 1, 2013,  
26 unless legislation enacted by the 83rd Legislature that becomes law  
27 expressly requires the institution or system to make the report:

- (1) Section 7.109;
- (2) Section 33.083;
- (3) Section 59.07;
- (4) Section 130.086;
- (5) Section 325.007, Government Code;
- (6) Section 669.003, Government Code;
- (7) Section 2005.007, Government Code;
- (8) Section 2054.097, Government Code;
- (9) Chapter 2114, Government Code; and
- (10) Section 2205.041, Government Code.

(c) A rule or policy of a state agency, including the Texas Higher Education Coordinating Board, in effect on June 1, 2011, that requires reporting by a university system or an institution of higher education has no effect on or after September 1, 2013, unless the rule or policy is affirmatively and formally readopted before that date by formal administrative rule published in the Texas Register and adopted in compliance with Chapter 2001, Government Code. This subsection does not apply to:

(1) a rule or policy for which the authorizing statute is listed in Subsection (b);

(2) a rule or policy for which the authorizing statute is repealed on or before September 1, 2013, by legislation enacted by the legislature that becomes law; or

(3) a report required under any of the following laws:

- (A) Section 51.005;
- (B) Section 51.3062;
- (C) Section 51.402;



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- 1                    (D) Section 56.039;
- 2                    (E) Section 61.051(k);
- 3                    (F) Section 61.059; or
- 4                    (G) Section 62.095(b).

5            SECTION 6.04. Section 51.914, Education Code, is amended to  
6 read as follows:

7            Sec. 51.914. PROTECTION OF CERTAIN INFORMATION. (a) In  
8 order to protect the actual or potential value, the following  
9 information is ~~[shall be]~~ confidential and is ~~[shall]~~ not ~~[be]~~  
10 subject to disclosure under Chapter 552, Government Code, or  
11 otherwise:

12                    (1) all information relating to a product, device, or  
13 process, the application or use of such a product, device, or  
14 process, and all technological and scientific information  
15 (including computer programs) developed in whole or in part at a  
16 state institution of higher education, regardless of whether  
17 patentable or capable of being registered under copyright or  
18 trademark laws, that have a potential for being sold, traded, or  
19 licensed for a fee;

20                    (2) any information relating to a product, device, or  
21 process, the application or use of such product, device, or  
22 process, and any technological and scientific information  
23 (including computer programs) that is the proprietary information  
24 of a person, partnership, corporation, or federal agency that has  
25 been disclosed to an institution of higher education solely for the  
26 purposes of a written research contract or grant that contains a  
27 provision prohibiting the institution of higher education from

1 disclosing such proprietary information to third persons or  
2 parties; or

3           (3) the plans, specifications, blueprints, and  
4 designs, including related proprietary information, of a  
5 scientific research and development facility that is jointly  
6 financed by the federal government and a local government or state  
7 agency, including an institution of higher education, if the  
8 facility is designed and built for the purposes of promoting  
9 scientific research and development and increasing the economic  
10 development and diversification of this state.

11           **(b) Information maintained by or for an institution of**  
12 **higher education that would reveal the institution's plans or**  
13 **negotiations for commercialization or a proposed research**  
14 **agreement, contract, or grant, or that consists of unpublished**  
15 **research or data that may be commercialized, is not subject to**  
16 **Chapter 552, Government Code, unless the information has been**  
17 **published, is patented, or is otherwise subject to an executed**  
18 **license, sponsored research agreement, or research contract or**  
19 **grant. In this subsection, "institution of higher education" has**  
20 **the meaning assigned by Section 61.003.**

21           SECTION 6.05. Section 130.152, Education Code, is amended  
22 to read as follows:

23           Sec. 130.152. CRITERIA FOR PROGRAMS FOR THE DISADVANTAGED.  
24 A junior college may develop programs to serve persons from  
25 backgrounds of economic or educational deprivation by submission of  
26 a plan based on the following criteria to the Texas Higher Education  
27 Coordinating Board[~~, Texas College and University System~~]:

1           (1) an instructional program that accommodates the  
2 different learning rates of students and compensates for prior  
3 economic and educational deprivation;

4           (2) an unrestricted admissions policy allowing the  
5 enrollment of any person 18 years of age or older with a high school  
6 diploma or its equivalent who can reasonably be expected to benefit  
7 from instruction;

8           (3) the assurance that all students, regardless of  
9 their differing programs of study, will be considered, known, and  
10 recognized as full members of the student body, provided that the  
11 administrative officers of a junior college may deny admission to a  
12 prospective student or attendance of an enrolled student if, in  
13 their judgment, the person [he] would not be competent to benefit  
14 from a program of the college, or would by the person's [his]  
15 presence or conduct create a disruptive atmosphere within the  
16 college not consistent with the statutory purposes of the college;

17           ~~(4) [the submission of a plan for a financial aid~~  
18 ~~program which removes to the maximum extent possible the financial~~  
19 ~~barriers to the educational aspirations of the citizens of this~~  
20 ~~state,~~

21           ~~[(5) an annual evaluation report based on scientific~~  
22 ~~methods and utilizing control groups wherever possible to be~~  
23 ~~submitted to the coordinating board at the end of each school year,~~  
24 ~~covering each remedial compensatory course or program offered at~~  
25 ~~the college,~~

26           ~~[(6)]~~ any other criteria consistent with the  
27 provisions of this subchapter specified by the coordinating board;

1 and

2           (5) [~~47~~] a junior college must obtain approval of the  
3 coordinating board [~~Coordinating Board, Texas College and~~  
4 ~~University System,~~] before offering any courses under the  
5 provisions of this Act.

6           SECTION 6.06. Section 401.042, Government Code, is amended  
7 by adding Subsection (c) to read as follows:

8           (c) In consultation with public institutions of higher  
9 education, the offices of the governor and the Legislative Budget  
10 Board shall review the forms for higher education legislative  
11 appropriations requests to identify opportunities to improve  
12 efficiency, provide better transparency of funding sources,  
13 eliminate unnecessary or duplicative requirements, and otherwise  
14 reduce the cost or difficulty of providing information related to  
15 appropriations requests.

16           SECTION 6.07. Subchapter L, Chapter 403, Government Code,  
17 is amended by adding Section 403.2715 to read as follows:

18           Sec. 403.2715. UNIVERSITY SYSTEMS AND INSTITUTIONS OF  
19 HIGHER EDUCATION. (a) In this section, "institution of higher  
20 education" and "university system" have the meanings assigned by  
21 Section 61.003, Education Code.

22           (b) Except as provided by this section, this subchapter does  
23 not apply to a university system or institution of higher  
24 education.

25           (c) A university system or institution of higher education  
26 shall account for all personal property as defined by the  
27 comptroller under Section 403.272. At all times, the property

records of a university system or institution of higher education must accurately reflect the personal property possessed by the system or institution.

(d) The chief executive officer of each university system or institution of higher education shall designate one or more property managers. The property manager shall maintain the records required and be the custodian of all personal property possessed by the system or institution.

(e) Sections 403.273(h), 403.275, and 403.278 apply to a university system or institution of higher education.

SECTION 6.08. Subsection (d), Section 2101.0115, Government Code, is amended by adding Subdivision (4) to read as follows:

(4) "Institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

SECTION 6.09. Section 2101.0115, Government Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to an institution of higher education or university system.

SECTION 6.10. Subsection (c), Section 2254.028, Government Code, is amended to read as follows:

(c) Subsection (a) [~~(a)(3)~~] does not apply to a major consulting services contract to be entered into by an institution of higher education other than a public junior college if the institution includes in the invitation published under Section 2254.029 a finding by the chief executive officer of the

1 institution that the consulting services are necessary and an  
2 explanation of that finding.

3 SECTION 6.11. Section 2254.0301, Government Code, is  
4 amended to read as follows:

5 Sec. 2254.0301. CONTRACT NOTIFICATION. (a) A state agency  
6 shall provide written notice to the Legislative Budget Board of a  
7 contract for consulting services if the amount of the contract,  
8 including an amendment, modification, renewal, or extension of the  
9 contract, exceeds \$14,000. The notice must be on a form prescribed  
10 by the Legislative Budget Board and filed not later than the 10th  
11 day after the date the entity enters into the contract.

12 (b) This section does not apply to a university system or  
13 institution of higher education. In this subsection, "institution  
14 of higher education" and "university system" have the meanings  
15 assigned by Section 61.003, Education Code.

16 SECTION 6.12. Subsection (f), Section 388.005, Health and  
17 Safety Code, is amended to read as follows:

18 (f) This section does not apply to a state agency or an  
19 institution of higher education that the State Energy Conservation  
20 Office determines [~~that~~], before September 1, 2007, adopted a plan  
21 for conserving energy under which the agency or institution  
22 established a percentage goal for reducing the consumption of  
23 electricity. The exemption provided by this section applies only  
24 while the agency or institution has an energy conservation plan in  
25 effect and only if the agency or institution submits reports on the  
26 conservation plan each year [~~calendar quarter~~] to the governor, the  
27 Legislative Budget Board, and the State Energy Conservation Office.

SECTION 6.13. Section 412.053, Labor Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to an institution of higher education or university system. In this subsection, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

SECTION 6.14. Subsection (d), Section 31.153, Natural Resources Code, is amended to read as follows:

(d) Each state agency, other than an institution of higher education, annually at the time set by the division, shall furnish the Texas Historical Commission with a photograph and information that specifies and identifies the age of each building:

(1) that was acquired by the agency after the date of the preceding annual submission and that is at least 45 years old on the date of the current submission; or

(2) that is possessed by the agency and has become 45 years old since the date the information was previously submitted.

#### ARTICLE 7. STUDENT FEE ADVISORY COMMITTEES

SECTION 7.01. Subchapter E, Chapter 54, Education Code, is amended by adding Section 54.5033 to read as follows:

Sec. 54.5033. STUDENT FEE ADVISORY COMMITTEE MEETINGS OPEN TO PUBLIC. (a) A student fee advisory committee established under this chapter shall conduct meetings at which a quorum is present in a manner that is open to the public and in accordance with procedures prescribed by the president of the institution.

(b) The procedures prescribed by the president must:

(1) provide for notice of the date, hour, place, and

subject of the meeting at least 72 hours before the meeting is convened; and

(2) require that the notice be:

(A) posted on the Internet; and

(B) published in a student newspaper of the institution, if an issue of the newspaper is published between the time of the Internet posting and the time of the meeting.

(c) The final recommendations made by a student fee advisory committee must be recorded and made public.

#### ARTICLE 8. HEALTH SCIENCE CENTER

SECTION 8.01. Subtitle D, Title 3, Education Code, is amended by adding Chapter 89 to read as follows:

#### CHAPTER 89. THE TEXAS A&M UNIVERSITY SYSTEM HEALTH SCIENCE CENTER

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 89.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of regents of The Texas A&M University System.

(2) "Health science center" means The Texas A&M University System Health Science Center.

Sec. 89.002. COMPOSITION. (a) The Texas A&M University System Health Science Center is composed of the following component institutions, agencies, and programs under the management and control of the board:

(1) The Texas A&M University System Health Science Center College of Medicine;

(2) The Texas A&M University System Health Science Center Baylor College of Dentistry;



(3) The Texas A&M University System Health Science Center School of Rural Public Health;

(4) The Texas A&M University System Health Science Center Irma Lerma Rangel College of Pharmacy;

(5) The Texas A&M University System Health Science Center College of Nursing;

(6) The Texas A&M University System Health Science Center School of Graduate Studies;

(7) The Texas A&M University System Health Science Center Institute of Biosciences and Technology;

(8) The Texas A&M University System Health Science Center Coastal Bend Health Education Center;

(9) The Texas A&M University System Health Science Center South Texas Health Center; and

(10) The Texas A&M University System Health Science Center Rural and Community Health Institute.

(b) The Texas A&M University System Health Science Center Baylor College of Dentistry may use the name "Baylor" only:

(1) in accordance with:

(A) a license agreement between the health science center and Baylor University; or

(B) other written approval from Baylor University; or

(2) as otherwise permitted by law.

Sec. 89.003. MANDATORY VENUE. (a) Venue for a suit filed against the health science center, any component institution, agency, or program of the health science center, or any officer or

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employee of the health science center is in Brazos County.

(b) This section does not waive any defense to or immunity from suit or liability that may be asserted by an entity or individual described by this section.

(c) In case of a conflict between this section and any other law, this section controls.

Sec. 89.004. EXPENDITURE OF STATE FUNDS. The board is authorized to expend funds appropriated to it by the legislature for all lawful purposes of the health science center and its component institutions, agencies, and programs as well as funds available under the authority of Section 18, Article VII, Texas Constitution, for the purposes expressed in that section for the support of the health science center and its component institutions, agencies, and programs.

[Sections 89.005-89.050 reserved for expansion]

SUBCHAPTER B. THE TEXAS A&M UNIVERSITY SYSTEM HEALTH SCIENCE

CENTER IRMA LERMA RANGEL COLLEGE OF PHARMACY

Sec. 89.051. THE TEXAS A&M UNIVERSITY SYSTEM HEALTH SCIENCE CENTER IRMA LERMA RANGEL COLLEGE OF PHARMACY. (a) The board shall maintain a college of pharmacy as a component of the health science center.

(b) The college shall be known as The Texas A&M University System Health Science Center Irma Lerma Rangel College of Pharmacy, and the primary building in which the school is operated in Kleberg County must include "Irma Rangel" in its official name.

SECTION 8.02. Subdivision (5), Section 61.003, Education Code, is amended to read as follows:

(5) "Medical and dental unit" means The Texas A&M University System Health Science Center and its component institutions, agencies, and programs; The University of Texas Medical Branch at Galveston; The University of Texas Southwestern Medical Center at Dallas; The University of Texas Medical School at San Antonio; The University of Texas Dental Branch at Houston; The University of Texas M. D. Anderson Cancer Center; The University of Texas Graduate School of Biomedical Sciences at Houston; The University of Texas Dental School at San Antonio; The University of Texas Medical School at Houston; The University of Texas Health Science Center--South Texas and its component institutions, if established under Subchapter N, Chapter 74; the nursing institutions of The Texas A&M University System and The University of Texas System; and The University of Texas School of Public Health at Houston; and such other medical or dental schools as may be established by statute or as provided in this chapter.

SECTION 8.03. Section 89.003, Education Code, as added by this Act, applies only to an action brought against The Texas A&M University System Health Science Center, a component institution, agency, or program of that center, or an officer or employee of that center on or after the effective date of this Act.

#### ARTICLE 9. REPEALER

SECTION 9.01. (a) The following laws are repealed effective September 1, 2011:

- (1) Section 51.216, Education Code;
- (2) Subsections (b) and (c), Section 51.403, Education Code;

1           (3)    Section 51.4033, Education Code;  
2           (4)    Section 61.0815, Education Code;  
3           (5)    Section 61.086, Education Code;  
4           (6)    Subsection (c), Section 61.087, Education Code;  
5           (7)    Section 61.9685, Education Code;  
6           (8)    Section 1434.054, Government Code;  
7           (9)    Section 2056.011, Government Code;  
8           (10)   Section 2107.005, Government Code;  
9           (11)   Subsection (c), Section 412.042, Labor Code; and  
10          (12)   Subsection (c), Section 3.01, Chapter 670, Acts  
11 of the 72nd Legislature, Regular Session, 1991 (Article 4477-7j,  
12 Vernon's Texas Civil Statutes).

13          (b)    The following provisions of the Education Code are  
14 repealed effective September 1, 2013:

15           (1)    Section 51.859;  
16           (2)    Subsection (e), Section 51.917;  
17           (3)    Subsection (d), Section 51.968;  
18           (4)    Subsection (h), Section 54.203;  
19           (5)    Subsection (c), Section 56.034;  
20           (6)    Subsection (j), Section 56.079;  
21           (7)    Section 61.0582;  
22           (8)    Subsection (c), Section 61.066;  
23           (9)    Subsection (d), Section 63.003;  
24           (10)   Section 63.004;  
25           (11)   Section 63.103;  
26           (12)   Subsection (m), Section 86.52;  
27           (13)   Section 88.210;

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- 1           (14) Section 106.54;
- 2           (15) Section 142.005;
- 3           (16) Section 143.006;
- 4           (17) Section 147.005;
- 5           (18) Section 148.005; and
- 6           (19) Section 153.008.

7           SECTION 9.02. The following are repealed:

8                 (1) Subchapters D, F, G, and H, Chapter 86, Education  
9 Code; and

10                (2) Subchapter I, Chapter 87, Education Code.

11           SECTION 9.03. (a) This section governs a conflict between  
12 this Act and any other Act of the 82nd Legislature, Regular Session,  
13 2011, without regard to the relative dates of enactment.

14               (b) If this Act and any other Act repeal the same statute,  
15 the earlier effective date of repeal controls.

16               (c) If this Act amends a statute that any other Act repeals,  
17 the repeal controls.

18                         ARTICLE 10. EFFECTIVE DATE

19           SECTION 10.01. This Act takes effect immediately if it  
20 receives a vote of two-thirds of all the members elected to each  
21 house, as provided by Section 39, Article III, Texas Constitution.  
22 If this Act does not receive the vote necessary for immediate  
23 effect, this Act takes effect September 1, 2011.

S.B. No. 5

David Dewhurst  
President of the Senate

Joe Straus  
Speaker of the House

I hereby certify that S.B. No. 5 passed the Senate on May 10, 2011, by the following vote: Yeas 30, Nays 1; and that the Senate concurred in House amendments on May 27, 2011, by the following vote: Yeas 31, Nays 0.

Letsy Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 5 passed the House, with amendments, on May 19, 2011, by the following vote: Yeas 136, Nays 0, one present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

17 JUN '11  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
JUN 17 2011

John O'Clock  
Secretary of State